

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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9 FEBRUARY 20, 2001

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12 APPEARANCES:

13 MASON BRENT, REPRESENTATIVE OF THE GAS & OIL INDUSTRY

14 BENNY WAMPLER, CHAIRMAN

15 MAX LEWIS, PUBLIC MEMBER

RICHARD GILLIAM, REPRESENTATIVE OF THE COAL INDUSTRY

SANDRA RIGGS, ASSISTANT ATTORNEY GENERAL

16 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND

17 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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****AGENDA ATTACHED

1 BENNY WAMPLER: Good morning. My name is Benny
2 Wampler. I'm Deputy Director for the Department of Mines,
3 Minerals and Energy and Chairman of the Gas and Oil Board;
4 and I'll ask the Members to introduce themselves, please.
5 MASON BRENT: My name is Mason Brent. I'm from
6 Richmond. I represent the Gas and Oil Industry.
7 SANDRA RIGGS: I'm Sandra Riggs, with the Office of
8 the Attorney General, and I'm here to advise the Board.
9 MAX LEWIS: My name's Max Lewis. I'm from Buchanan
10 County. I represent...I'm a public member.
11 RICHARD GILLIAM: Richard Gilliam, Abingdon, Coal
12 Industry Representative.
13 BOB WILSON: I'm Bob Wilson. I'm the Director of
14 the Division of Gas and Oil, and Principal Executive to the
15 Staff of the Board.
16 BENNY WAMPLER: The first item on today's agenda is
17 the Board will consider a petition from Equitable Production
18 Company for pooling of a coalbed methane unit under the Nora
19 Coalbed Gas Field Order and identified as VC-4527. This is
20 docket number VGOB-00-11/21-0848. We'd ask the parties that
21 wish to address the Board in this matter to come forward at
22 this time.
23 DON HALL: I'll just stand here if that would be
24

1 okay.

2 BENNY WAMPLER: That's fine.

3 DON HALL: We'd like to ask for a continuance on

4 that. We have a motion before the Buchanan County Circuit

5 Court to appoint a Guardian Ad Litem for an incompetent heir

6 involving this...this docket.

7 BENNY WAMPLER: Okay, is that continued to next

8 month or---?

9 DON HALL: Yes.

10 BENNY WAMPLER: Okay. That will be continued until

11 next month then. The next item on the agenda, the Board will

12 consider a petition from Buchanan Production Company for

13 pooling of a coalbed methane unit under the Oakwood Coalbed

14 Methane Gas Field I order and identified as YYY-21, docket

15 number VGOB-00-12/19--0851; and we'd ask the parties that

16 wish to address the Board in this matter to come forward at

17 this time.

18 MARK SWARTZ: Mark Swartz and Les Arrington.

19 BENNY WAMPLER: Are there any others?

20 (No audible response.)

21 BENNY WAMPLER: The record will show there are no

22 others. You may proceed.

23 MARK SWARTZ: Could you swear Mr. Arrington?

24

1 (WITNESS IS DULY SWORN.)

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4

5 LESLIE K. ARRINGTON

6 having been duly sworn, was examined and testified as
7 follows:

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. SWARTZ:

10 Q. Could you state your name, please?

11 A. Leslie K. Arrington.

12 Q. Who do you work for?

13 A. Consol Energy.

14 Q. And what do you do for them?

15 A. I work as a gas engineer.

16 Q. Did you prepare, or cause to be prepared,
17 the notice of hearing, the exhibits and the application with
18 regard to this unit that we're seeking to pool today?

19 A. Yes, I did.

20 Q. And this is a request to pool under the
21 Oakwood I rules, is that correct?

22 A. Yes, it is.

23 Q. So, we're talking about an 80 acre unit that
24

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1 would be a frac well unit producing from the Tiller on down?

2 A. That's correct.

3 Q. The applicant is whom?

4 A. Buchanan Production Company.

5 Q. And Buchanan Production Company is a

6 Virginia General Partnership whose two partners are

7 Appalachian Operators and Appalachian Methane, Inc., is that

8 correct?

9 A. Yes.

10 Q. And these two corporate partners of Buchanan

11 Production Company are wholly owned indirect subsidiaries of

12 Consol, Inc., is that correct?

13 A. Correct.

14 Q. Is Buchanan Production Company authorized to

15 do business in Virginia?

16 A. Yes.

17 Q. Who are you seeking to have designated as

18 operator of this unit?

19 A. Consol Energy.

20 Q. Is Consol Energy, Inc. a Delaware

21 corporation, authorized to do business in the Commonwealth?

22 A. Yes, it is.

23 Q. Has Consol Energy, Inc. registered with the

24

1 Department of Mines, Minerals and Energy and does it have a
2 blanket bond on file as required by law?

3 A. Yes, it does.

4 Q. For purposes of just sort of bringing people
5 up to date, is Consol Energy, Inc. the successor of Consol,
6 Inc.?

7 A. Yes, it is.

8 Q. And did that transaction or merger occur
9 effective December 31, the year 2000?

10 A. Yes, it did.

11 Q. So, just recently?

12 A. Right.

13 Q. Okay. When...when Buchanan...when Consol,
14 Inc. was acting as the predecessor of Consol Energy, it was
15 acting as agent for Buchanan Production Company, did Buchanan
16 Production Company actually delegate to Consol the authority
17 to explore, develop and maintain its properties?

18 A. Yes, it did.

19 Q. And Consol has accepted that responsibility
20 and proceeded accordingly, correct?

21 A. Yes.

22 Q. And that's why you're here today?

23 A. Yes, it is.

24

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1 Q. Have you listed the names of the people that
2 you're seeking to pool in both the notice of hearing for the
3 February the 20th, 2001 hearing and also in Exhibit B3 to the
4 application?

5 A. We have.

6 Q. Do you wish to add anybody or subtract
7 anybody today?

8 A. No.

9 Q. Okay. When you look at Exhibit B3, it
10 appears to me that you have addresses for everyone, so we do
11 not have an unknown or unlocateable problem, is that correct?

12 A. That's correct.

13 Q. And with regard to Exhibit B3, as long as
14 we're on that issue, it appears to me that there is no
15 requirement of escrow by reason of conflicting claims. Is
16 that also true?

17 A. That's...that's correct.

18 Q. So, any order that the Board might enter
19 here would not need to direct the escrow agent to establish
20 accounts or sub-accounts?

21 A. That's correct.

22 Q. Tell...tell me about mailing and publication
23 with regard to this application.

24

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1 A. It was mailed on...these were mailed...this
2 was mailed actually on November the 17th of 2000. It was
3 published in the Bluefield Daily Telegraph on November the
4 22nd of 2000.

5 Q. Okay. And have you filed proof of
6 publication and proofs with regard to mailing with the Board
7 today?

8 A. Yes, we have.

9 Q. Okay. Are there any amended exhibits with
10 regard to YYY-21?

11 A. No.

12 Q. Okay. If you look at...if you take a moment
13 and look at Exhibit A, page two with me, in terms of
14 standing, could you summarize for the Board the interest that
15 you have acquired and the interests that are outstanding that
16 you're seeking to pool?

17 A. Yes. We have leased 87.86814% of the
18 coalbed methane coal interest and the same for the oil and
19 gas interest. We're seeking to pool 12.13186% of the coal,
20 oil and gas, coalbed methane interest and we lease 100% of
21 the coal below this unit.

22 Q. Okay. The plat here, Exhibit A, shows one
23 well in the drilling window, is that correct?

24

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1 A. That's correct.

2 Q. So, we don't need a location exception?

3 A. No.

4 Q. And we're just talking about one well?

5 A. That's correct.

6 Q. Could you summ...could you tell the Board

7 the status of that well and the costs associated with that

8 well?

9 A. Yes. That well was permit number 4764. It

10 was issued on October the 19th of 2000. It was drilled on

11 November the 14th of 2000 to a total depth of 2,303 feet at a

12 cost of \$222,810.48.

13 Q. Is that a frac well?

14 A. Yes, it is.

15 Q. Okay. Obviously, you've leased about

16 88%...almost 88% of the interest in this unit. Could you

17 tell the Board the terms that you have generally offered to

18 the people you've been able to lease?

19 A. Our standard lease terms are a 1/8 royalty,

20 a \$1 per acre/per year for a coalbed methane lease with a

21 five year term.

22 Q. And would you recommend the same terms to

23 the Board in the event they should pool this unit with regard

24

1 to people who might be deemed to have been leased under the
2 terms of any order?

3 A. Yes, we would.

4 Q. Again, with regard to Exhibit B-3, there
5 is...there are two columns, one is acres in unit and one is
6 percent of unit. Do you see that?

7 A. Uh-huh. Yes.

8 Q. Does the percent of unit actually represent
9 the interest of the party named on a percentage basis in the
10 80 acre unit?

11 A. Yes, it does.

12 Q. And would that be the percent that would be
13 relevant their share of the 1/8 royalty?

14 A. Yes, it would.

15 Q. And would that also be the percentage that
16 they would use to calculate their participation cost in terms
17 of the estimated well cost?

18 A. Yes, it would.

19 Q. Or their carried interest cost?

20 A. Correct.

21 Q. Is the plan of development that's shown on
22 Exhibit A and generally in the application, in your opinion,
23 a reasonable plan to develop the coalbed methane resource
24

1 within and under this Oakwood I unit for the benefit of all
2 the owners of the coalbed methane?

3 A. Yes, it is.

4 Q. And will the proposed development protect
5 the correlative rights of all owners, whether conflicting or
6 not, of the coalbed methane within and under this unit?

7 A. Yes, it is.

8 MARK SWARTZ: That's all I have.

9 (Mr. Swartz and Mr. Arrington confer.)

10 Q. Okay, Les, you've pointed out to me that
11 you've got a problem with the date of mailing.

12 A. Yes...yes, we do. It was actually...we did
13 have a mistake in this one. We've corrected through all of
14 this and it was actually mailed on January the 23rd of 2001.

15 Q. Okay. And that's in the exhibits that
16 you've filed with the---?

17 A. Yes, it is.

18 Q. ---Board today and the spreadsheet with
19 regard to list of mail...people mailed to and the cards are
20 included in there?

21 A. Yes, it is.

22 Q. Was the publication that you've previously
23 testified to correct?

24

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1 A. Yes, it was.

2 MARK SWARTZ: That's all I have.

3 BENNY WAMPLER: Questions from members of the Board?

4 There's one thing. We all have A-22 as the Exhibits. I

5 don't know if that's a copying problem that we have or if

6 yours says the same thing.

7 MARK SWARTZ: A-22?

8 BENNY WAMPLER: A-22.

9 SANDRA RIGGS: The notice is YYY---.

10 LESLIE ARRINGTON: 21.

11 SANDRA RIGGS: ---21. But the plat attached is A-

12 22 to the notice and when you get to the application, it's an

13 A-22 application and an A-22 exhibits.

14 MARK SWARTZ: Everything I've got is YYY-21.

15 LESLIE ARRINGTON: No, all the---.

16 MAX LEWIS: Is this well located to any convent

17 ...close to any conventional wells?

18 LESLIE ARRINGTON: Not...not that I'm aware of.

19 MARK SWARTZ: You know, I don't know if Sandy...let

20 me just---.

21 MAX LEWIS: There's some conventional wells being

22 drilled in that area.

23 LESLIE ARRINGTON: I don't---.

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1 (Mr. Swartz and Mr. Arrington confer.)
2 (Board members confer among each other and with Mr.
3 Swartz discussing the Exhibit.)
4 LESLIE ARRINGTON: All the information we have here
5 is...that we filed was YYY-21. We filed an original and then
6 we---.
7 MARK SWARTZ: Well, you need to look at what
8 they've got.
9 MAX LEWIS: Whose surface is this well located on?
10 Do you know?
11 SANDRA RIGGS: Here's the...here's the application,
12 Max.
13 (Board members confer among themselves and with Mr.
14 Swartz discussing the Exhibit.)
15 LESLIE ARRINGTON: No, it's all...every...all the
16 copies we have here that we've submitted had YYY on it.
17 (Board members confer among themselves and with Mr.
18 Swartz and Mr. Arrington discussing the Exhibit.)
19 BOB WILSON: We have the copy as filed with or as in
20 our file is all A-22 after the first couple of pages of
21 the...first three pages of the notice here and when it was
22 separated, it apparently had an A-22 plat with it. I...I
23 have no idea where the problem came in, but it was something
24

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1 that we should have caught anyway.

2 LESLIE ARRINGTON: I've got my copies here.

3 MARK SWARTZ: Well, but this is...see, you're
4 looking at the original anyway. I mean, where's the one for
5 today?

6 BOB WILSON: Where's the one for today?

7 (Board members confer among themselves and with Mr.
8 Swartz and Mr. Arrington.)

9 MARK SWARTZ: Just to speculate on what might...
10 apparently Mr. Wilson's file does not have information that
11 was mailed by the applicant for the respondents in January.

12 LESLIE ARRINGTON: That's what has happened. That's
13 what happened. And that was my---.

14 MARK SWARTZ: Now, I admit that the stuff he has
15 isn't right either.

16 LESLIE ARRINGTON: That was my fault.

17 MARK SWARTZ: But it looks like this did not get
18 into your file maybe because we didn't send it to you or it
19 didn't get into your file. I'm not...I don't know what the
20 answer to that is. But I think what the Board was provided
21 with today was the December---.

22 BOB WILSON: Correct.

23 MARK SWARTZ: ---stuff that would have been mailed

24

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1 in November and we're proceeding today as the stuff that was
2 mailed in January for today.

3 LESLIE ARRINGTON: That's what has happened. The
4 second set didn't get to the Gas and Oil office, I believe.

5 BOB WILSON: Okay, let me...so, I can find the
6 thing. Thank you.

7 LESLIE ARRINGTON: Yeah. That's what happened.

8

9 DIRECT EXAMINATION RESUMES

10 QUESTIONS BY MR. SWARTZ:

11 Q. Just to follow up on that. Mr. Arrington,
12 what did you mail to the respondents in January with regard
13 to today's hearing?

14 A. Yes, we mailed the revised copies that you
15 all do not have in January.

16 Q. And do you have a transmittal letter---?

17 A. We do.

18 Q. ---and a copy of that attached that you're
19 using to assure yourself of that fact?

20 A. Yes, we do. Yes, I do.

21 Q. You might want to...if you haven't submitted
22 that today, you might want to submit this as an additional
23 exhibit. Why don't we call this Exhibit H.

24

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1 BENNY WAMPLER: Mark, we'll just save time and
2 continue this until next month and we'll move on to the next
3 item. Okay?

4 MARK SWARTZ: Okay.

5 LESLIE ARRINGTON: Okay.

6 BENNY WAMPLER: The next item on the agenda the
7 Board will consider a petition from Buchanan Production
8 Company for pooling of a coalbed methane unit identified as
9 C-15. This is docket number VGOB-01-01/16-0861. We'd ask
10 the parties that wish to address the Board in this matter to
11 come forward at this time.

12 MARK SWARTZ: Mark Swartz and Les Arrington.

13 BENNY WAMPLER: The record will show there are no
14 others. You may proceed.

15 MARK SWARTZ: I'd like to ask that the Board
16 consolidate for hearing the one that...the C-15 that was just
17 called with C-16, 0662 and D-15. I'm sorry, 0862 and 0863.

18 BENNY WAMPLER: I don't know what the...we have some
19 folks here today. Is there anyone here object to the
20 consolidation of these? He's asking us to call the next
21 three items on the agenda. I don't know what...what you're
22 here for. But if there's any problem with that, we'll go
23 ahead and...which docket number were you particularly

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1 interested in?

2 KYLE McCLANAHAN: It would be docket number VGOB-00-
3 12/19-0851.

4 BENNY WAMPLER: Okay. That's the one we just
5 continued. We continued that until next week or next month,
6 I'm sorry.

7 KYLE McCLANAHAN: That's fine.

8 BENNY WAMPLER: We didn't have the...we didn't have
9 what you apparently have in your file. It didn't make it to
10 the Board.

11 KYLE McCLANAHAN: I don't think all the mailings
12 were complete either.

13 BENNY WAMPLER: Okay. All right.

14 LESLIE ARRINGTON: Okay.

15 KYLE McCLANAHAN: Some of our parties didn't get all
16 the mailings.

17 BENNY WAMPLER: All right. Maybe you can---.

18 KYLE McCLANAHAN: I would appreciate if we could
19 have those in the next meeting.

20 BENNY WAMPLER: If you will get with these folks
21 here and give them the information and we'll try to make sure
22 that happens. Okay, we've been requested to consolidated
23 these. Any objection to doing that from members of the
24

1 Board?

2 (No audible response.)

3 BENNY WAMPLER: We'll also then call a petition from
4 Buchanan Production Company for a coalbed methane unit
5 identified as C-16. These is docket number VGOB-01-01/16-
6 0862 and coalbed methane unit identified as D-15, docket
7 number VGOB-01-01/16-0863; and we'd ask the parties that wish
8 to address the Board in these matters to come forward at this
9 time.

10 MARK SWARTZ: Mark Swartz and Les Arrington.

11

12 LESLIE K. ARRINGTON
13 having been duly sworn, was examined and testified as
14 follows:

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

17 Q. Les, I'm going to remind you you're still
18 under oath.

19 A. Yes.

20 Q. State your name again for the record.

21 A. Leslie K. Arrington.

22 Q. Who do you work for?

23 A. Consol Energy.

24

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1 Q. What do you do for them?

2 A. I work as a gas engineer.

3 Q. Did you either prepare, or cause to be

4 prepared, the notices of hearing, the applications and the

5 related exhibits for units C-15, C-16 and D-15?

6 A. Yes, I did.

7 Q. Okay. Are each of these units applications

8 made under both Oakwood I and Oakwood II?

9 A. Yes, they are.

10 Q. And basically, if we look toward the end of

11 any one of the applications there's a mine map, right?

12 A. There is.

13 Q. And it shows that the C row of units are

14 essentially intended to produce out of a longwall panel

15 number ten?

16 A. That's correct.

17 Q. In what mine?

18 A. VP#1.

19 Q. Okay. And that the unit D-15 in the D row

20 is anticipated to produce out of longwall panels nine,

21 eight---?

22 BENNY WAMPLER: Excuse me a second, Mark. Folks,

23 I'm sorry, but she's not able to record with you talking and,

24

1 you know, you can stay and do it afterwards or we'd ask you
2 to step out and get the information, whichever is convenient.
3 She can't...she can't pick up the information here and
4 that's important to you, too, as well later on.

5 KYLE McCLANAHAN: Absolutely.

6 BENNY WAMPLER: Thank you. Go ahead.

7 Q. My question, Mr. Arrington, was with regard
8 to the D-15 unit, is the intention there to produce coalbed
9 methane from longwall panels nine, eight and seven as
10 depicted on Exhibit G?

11 A. It would be, yes.

12 Q. Okay. So that is the plan of development
13 for this collection of units?

14 A. It is.

15 Q. Okay. And let's just look at the C row of
16 units for a minute, paying attention to Exhibit G. The first
17 unit C-15 would be the unit on the left of the exhibit,
18 correct---?

19 A. Uh-huh.

20 Q. ---in the C row?

21 A. Uh-huh. Yes.

22 Q. And then the next one would be the C-16 and
23 those are the two we're trying to pool today in the C row?

24

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1 A. That's correct.

2 Q. Is the C-17 unit a voluntary unit?

3 A. Yes, it is.

4 Q. So, you've leased a 100% of the coalbed
5 methane interest in C-17? They do not need to pool that
6 unit?

7 A. That's probably correct, yes.

8 Q. Okay. Well, we don't have an applica-
9 tion---?

10 A. I don't have it here.

11 Q. Okay. And then the expectation would be it
12 is because it's a voluntary unit?

13 A. Yes.

14 Q. Okay. With regard to these three units, or
15 three applications, who is the applicant?

16 A. The applicant is Buchanan Production.

17 Q. And who is it that you're seeking to have
18 designated as the operator with regard to each of the units?

19 A. Consol Energy, Inc.

20 Q. Okay. Is Buchanan Production Company a
21 Virginia General Partnership?

22 A. Yes, it is.

23 Q. Does it have two partners that are
24

1 Appalachian Operator's, Inc. and Appalachian Methane, Inc.?
2 A. Yes, it does.
3 Q. And are these two partners wholly owned
4 indirect subsidiaries of Consol Energy, Inc.?
5 A. Yes, they are.
6 Q. Is Buchanan Production Company authorized to
7 do business in the Commonwealth?
8 A. Yes, it is.
9 Q. Is Consol Energy, Inc. a Delaware
10 Corporation?
11 A. Yes, it is.
12 Q. Is it authorized to do business in the
13 Commonwealth?
14 A. Yes, it is.
15 Q. Has it registered with the DMME and does it
16 have a blanket bond on file?
17 A. Yes, it does.
18 Q. Has the management committee of Buchanan
19 Production Company previously delegated the authority and
20 responsibility to develop its coalbed methane assets to
21 Consol, Inc. who was the predecessor of Consol Energy, Inc.?
22 A. Yes.
23 Q. And did Consol, Inc. and as its successor,
24

1 Consol Energy, Inc., has it agreed to accept that delegation?

2 A. Yes, it has.

3 Q. With regard to these three hearings or these
4 three units, are the respondents named in both of the notices
5 of hearing and the Exhibits B3?

6 A. Yes.

7 Q. Do you need to add any respondents or do you
8 need to amend to dismiss any respondents today?

9 A. No.

10 Q. When did you mail?

11 A. We...it was mailed on January the 23rd of
12 2001 and the exhibits that we passed out had 1/19/01, I
13 believe.

14 Q. And these were actually mailed on January
15 the 23rd, '01?

16 A. Yes.

17 Q. And have the proofs mailing and
18 certification of mailing been filed today?

19 A. Yes, they have.

20 Q. And do they, in fact, indicate that that was
21 the date?

22 A. Yeah. Actually, she has 1/19 on these. So,
23 I believe...they have been filed today.

24

--

1 Q. Okay, let me see that.
2 (Mr. Swartz reviews the document.)
3 Q. Okay. From what you have filed with the
4 Board, there's an Affidavit of Due Diligence which states a
5 date of mailing with regard to C-15, correct?
6 A. That's correct.
7 Q. And what date does that show?
8 A. 1/19/01.
9 Q. Is that correct...is that correct?
10 A. Yes, it is.
11 Q. And then attached to the...just staying with
12 unit C-15, attached to that, is there a listing of the
13 respondents showing the dates of mailing, whether or not they
14 received the mail and if they did, the date they signed for
15 it?
16 A. Yes, it does.
17 Q. And does it also have the cards attached?
18 A. Yes, it does.
19 Q. Okay. Now, let's look at C-16. Was the
20 Affidavit sent?
21 A. The 19th of 200...January the 19th of 2001.
22 Q. Is that correct?
23 A. Yes, it is.

24

--

1 Q. And are there cards attached?
2 A. Yes, it is.
3 Q. And is there also an exhibit attached with
4 regard to C-16?
5 A. Yes.
6 Q. Now, with regard to C-16, there's an exhibit
7 attached that shows it was mailed on 1/19/01, correct?
8 A. That's correct.
9 Q. Is that a correct date?
10 A. Yes, it is.
11 Q. And then there's listing of the folks who
12 got their mail on the dates they got them?
13 A. That's correct.
14 Q. With regard to D-15, what does the Affidavit
15 say with regard to date of mailing?
16 A. January the 19th of 2001.
17 Q. Is that correct?
18 A. Yes, it is.
19 Q. And then there's a certification. What date
20 does that show?
21 A. D-15, January the 19th of 2001.
22 Q. Okay. And it also shows who received mail
23 and when and who didn't?
24

1 A. That's correct.

2 Q. Now, with regard to the application you have
3 in front of you, which I think is D-15, what is the
4 information with regard to publication on D-15?

5 A. Yeah, it was published in the Bluefield
6 Daily Telegraph on December the 19th of 2000.

7 Q. Okay. With regard to C-15, what was the
8 situation with regard to publication?

9 A. December the 19th of 2000 in the Bluefield
10 Daily Telegraph and that one was probably the same thing.

11 Q. And with regard to C-16, what was the story
12 with regard to publication?

13 A. December the 19th of 2000 in the Bluefield
14 Daily Telegraph.

15 Q. And the filing where the Board actually
16 shows what was published, correct?

17 A. That's correct.

18 Q. And what you did publish then would have
19 been the notice and annex map?

20 A. Yes.

21 Q. Each of these applications, I take it, seeks
22 to pool for the production of active gob, essentially?

23 A. It does.

24

--

1 Q. And if we look at exhibit...the exhibits B3,
2 I'm just going to take for example C-15, we've got three
3 columns here, which is a little different than the unit---?
4 A. That's correct.
5 Q. ---we were talking about earlier, right?
6 A. That's correct.
7 Q. The first column deals with acreage in the
8 unit?
9 A. Correct.
10 Q. Then there's a percent of unit?
11 A. Percent of the 80 acre unit, correct.
12 Q. And then there's an interest in the panel
13 column?
14 A. That's correct.
15 Q. And with regard to C-15, for example, if we
16 look at Exhibit G, C-15 has a production allocation interest
17 in what longwall panel?
18 A. The ten panel.
19 Q. Okay. And only the ten panel?
20 A. That's correct.
21 Q. If we look at D-15, for example, that has a
22 production interest, or allocation interest, and just look at
23 Exhibit G, in how many panels?
24

1 A. Three.

2 Q. Okay. For purposes of folks understanding
3 their royalty interest, should they look at the interest
4 stated for each panel as the way in which their royalty
5 interest share the 12 1/2% of 1/8 royalty as calculated for
6 production assigned to each longwall panel?

7 A. That's correct.

8 Q. If they're looking at trying to quantify
9 their participation interest or their carried interest, they
10 should look, on the other hand, to the percent of unit for
11 that calculation?

12 A. That's correct.

13 Q. Okay. And just for example, to show that
14 there are differences here, if you look at the B3 for unit
15 for D-15, you had it printed sideways because you actually
16 have had to state a separate interest in percentage for each
17 of the three panels for which production will be allocated?

18 A. We did.

19 Q. Each of these units is an 80 acre unit under
20 Oakwood I and II?

21 A. Yes, it is.

22 Q. The production pool would be from the Tiller
23 on down?

24

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1 A. All seams below the Tiller, correct.

2 Q. And the participation cost is disclosed for
3 the units in an Exhibit G, page one, correct?

4 A. It is.

5 Q. And if we look at Exhibit G, page one for
6 unit D-15, what is the allocated participation cost?

7 A. \$92,293.15.

8 Q. If we look at the same allocated
9 participation cost for unit C-16, what is the allocated cost?

10 A. \$146,732.81.

11 Q. And if we look at C-15, what is the
12 allocated cost?

13 A. \$14,058.33.

14 Q. With regard to standing in these...in these
15 units, C-15, tell the Board what you've leased and what you
16 need to pool?

17 A. Yes, we've leased 50.1044% of the coal/
18 coalbed methane interest and 50.1044% of the oil and
19 gas/coaled methane interest and we're seeking to pool
20 49.8956% of the coal, oil and gas/coaled methane interest in
21 C-15 unit, and we have a 100% of the coal leased below that
22 unit. For the unit C-16...C-16, we have leased 45.2525% of
23 the coal, oil and gas/coaled methane interest. We're
24

1 seeking to pool 54.7475% of coal, oil and gas/coalbed methane
2 interest, and we have 100% of the coal leased below that
3 unit.

4 Q. With regard to D-15?

5 A. D-15---.

6 BENNY WAMPLER: Excuse me just a second. Would you
7 go over C-16 again, please. Is that what you just did, C-16?

8 LESLIE ARRINGTON: Right. Yes, it was.

9 MARK SWARTZ: If you look at Exhibit A, page two,
10 because the chart is wrong.

11 BENNY WAMPLER: Okay.

12 Q. If you would refer to Exhibit A, page two,
13 and tell the Board what you've acquired and what needs to be
14 pooled?

15 A. We have acquired 45.2525% of the coal, oil
16 and gas/coalbed methane interest. We're seeking to pool
17 54.7475% of the coal, oil and gas/coalbed methane interest
18 and we have 100% of the coal leased below that unit.

19 Q. And with regard to D-15, referring to
20 Exhibit A, page two?

21 A. Yes. We have leased 67.6416% of the coal,
22 oil and gas/coalbed methane interest. We're seeking to pool
23 32.3584% of the coal, oil and gas/coalbed methane interest
24

1 and we have 100% of the coal leased below that unit.

2 Q. Mr. Arrington, my last couple of questions
3 are first, does Exhibit---?

4 BENNY WAMPLER: Excuse me one second. I need you to
5 go back to C-15 numbers because they don't match and do you
6 have an amended Exhibit A, page two?

7 LESLIE ARRINGTON: C-15?

8 LESLIE ARRINGTON: C-15?

9 BENNY WAMPLER: C-15, Exhibit A, page two.

10 MARK SWARTZ: The Exhibit we're working off of shows
11 it was prepared on 1/5/01.

12 SANDRA RIGGS: Ours is 12/11/00.

13 MARK SWARTZ: That's the difference.

14 BENNY WAMPLER: We'll need you to submit an
15 amended--.

16 MARK SWARTZ: Right.

17 BENNY WAMPLER: ---exhibit.

18 MARK SWARTZ: Okay.

19 BENNY WAMPLER: Would you go over those numbers?

20 LESLIE ARRINGTON: Yes. Okay, we have leased
21 50.1044% of the coal, oil and gas/coalbed methane interest,
22 seeking to pool 49.8956% of the coal, oil and gas/coalbed
23 methane interest, and we have a 100% of the coal leased below
24

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1 that unit and that was unit C-15.

2 BENNY WAMPLER: Okay.

3 MASON BRENT: Mr. Chairman, I think we have a

4 similar problem on C-16.

5 MARK SWARTZ: Right.

6 BENNY WAMPLER: Yes, those are different.

7 MARK SWARTZ: We'll file an amended exhibit.

8 (Mr. Swartz and Mr. Arrington confer.)

9 MARK SWARTZ: I don't know if the percentages have

10 changed. But I'm looking from an exhibit D-15 that was

11 prepared 1/5/01. I assumed yours was the earlier one as

12 well.

13 SANDRA RIGGS: 12/11/00.

14 MARK SWARTZ: Okay.

15 LESLIE ARRINGTON: Okay. That's---.

16 Q. Mr. Arrington, let me direct your attention

17 to Exhibit G since it's the same for any unit. I just happen

18 to be taking D-15, but it doesn't really matter. Is the plan

19 here to produce panel ten and share the revenue achieved from

20 that production with units C-15, C-16 and C-17?

21 A. Yes, it is.

22 Q. Is the plan also to produce coalbed methane

23 from panel seven, eight and nine and share that revenue with

24

1 the persons owning interests or claims in D-15, D-16 and D-
2 17?

3 A. Yes, it is.

4 Q. And you've indicated that there are two
5 wells in each of these three...actually four panels that
6 we're talking about?

7 A. I think that's correct, Mark. I believe
8 it's correct.

9 Q. And when I looked at your cost information
10 that you...where you were disclosing well costs and totaling
11 to do the allocated costs, it appeared to me that you were
12 assigning the cost of two wells per each unit?

13 A. I was attempting to, yes.

14 Q. Okay. And some of the costs for the wells
15 have actually been assigned, for example, if you'll look at
16 D-15 even though there's no wells in D-15---?

17 A. Correct.

18 Q. ---since they're sharing production from
19 these panels, the well costs have been allocated to them and
20 their respective percentages?

21 A. They did. They were.

22 Q. And is it your opinion that this plan to
23 develop gas from these four longwall panels, using two wells
24

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1 in each panel and allocating gas production essentially to
2 the six units at issue, is a reasonable plan to develop
3 coalbed methane from under these units and protect the
4 correlative rights of the owners?

5 A. Yes, it was.

6 MARK SWARTZ: That's all I have.

7 BENNY WAMPLER: Questions from members of the Board?

8 SANDRA RIGGS: Did I hear you say that panel seven,
9 eight, nine and ten would be allocated to each of these
10 units?

11 BENNY WAMPLER: Seven, eight and nine, I believe.

12 MARK SWARTZ: Well, they would be allocated as
13 indicated in the paperwork. I mean, ten is only going to be
14 allocated to...I'm sorry, the C-15 and C-16.

15 SANDRA RIGGS: Right.

16 MARK SWARTZ: And C-17.

17 SANDRA RIGGS: But for C-15, you would have panel
18 ten; for C-16, you would have panel ten; and for D-15, you
19 would have panel seven, eight and nine?

20 MARK SWARTZ: Seven, eight and nine, right.

21 BENNY WAMPLER: Are the well cost allocations, do
22 they all have to be changed based on the Exhibit A2 changes?

23 (No audible response.)

24

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1 BENNY WAMPLER: Those were based on percentage of
2 panel?
3 LESLIE ARRINGTON: That's correct. They are based
4 on that...the panel percentage.
5 BENNY WAMPLER: Any other questions from members of
6 the Board?
7 MAX LEWIS: Have you all tried to obtain leases from
8 these other---?
9 LESLIE ARRINGTON: We have...yeah, we have. Each
10 one of these units, each person within these units were
11 contacted individually by certified mail, phone or whatever
12 by one of our land agents and they supply me with a listing
13 of, you know, how...that they tried to lease them and were
14 not successful.
15 (Board members confer among each other.)
16 BENNY WAMPLER: Any other questions from members of
17 the Board?
18 (No audible response.)
19 BENNY WAMPLER: Do you have anything further, Mr.
20 Swartz?
21 MARK SWARTZ: No.
22 BENNY WAMPLER: Is there a motion for approval?
23 (Long Pause.)
24
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1 MASON BRENT: Mr. Chairman, I move that we approve
2 these applications subject to the corrections. I also make a
3 friendly reminder, if I may, or suggestion, that we put a
4 little more effort into getting these things right when they
5 come to us.

6 LESLIE ARRINGTON: We failed in getting the copies
7 to the Board.

8 BENNY WAMPLER: Is there a second?
9 (Long pause.)

10 BENNY WAMPLER: We have a motion for approval. Is
11 there a second?
12 (Long pause.)

13 BENNY WAMPLER: The motion dies without a second.
14 Is there another motion?

15 RICHARD GILLIAM: I make a motion.

16 BENNY WAMPLER: A motion to approve the
17 applications.

18 BENNY WAMPLER: He didn't hear the first.

19 SANDRA RIGGS: I don't think he heard.

20 BENNY WAMPLER: He didn't hear the first one. Do
21 you want to second?

22 MASON BRENT: Do you want me to restate my motion?

23 SANDRA RIGGS: No.

24
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1 BENNY WAMPLER: He motioned to approve. He didn't
2 hear the first one. If you want to second the motion,
3 then---.

4 MASON BRENT: I'll second his motion.

5 BENNY WAMPLER: Okay. All in favor, signify by
6 saying yes.

7 (Mr. Brent, Mr. Wampler and Mr. Gilliam say yes.)

8 BENNY WAMPLER: Opposed, say no.

9 (Mr. Lewis says no.)

10 BENNY WAMPLER: I have one disapproval. The motion
11 is approved. The next item on the agenda is a petition from
12 Equitable Production Company. We'll let them get situated.

13 BOB WILSON: Mr. Chairman, I have a letter that the
14 Division of Gas and Oil received on behalf of the Board from
15 a concerned party on the upcoming item. I'd like to pass
16 that out now for the Board members to consider as part of
17 this application.

18 BENNY WAMPLER: All right.

19 (Mr. Wilson distributes a copy of the letter to the
20 Board members.)

21 BENNY WAMPLER: Okay, this...the item is a petition
22 by Equitable Production for pooling of a coalbed methane unit
23 identified as VC-4647. This is docket number VGOB-01-02/20-
24

1 0869. We'd ask the parties that wish to address the Board in
2 this matter to come forward at this time.

3 JIM KISER: Mr. Chairman and members of the Board,
4 Jim Kiser on behalf of Equitable Production Company. Our
5 witnesses in this matter will be Mr. Don Hall and Mr. Charlie
6 Gandee. If I could have a second to finish reading this
7 letter. This is the first time I've seen it.

8 BENNY WAMPLER: Sure. Okay.

9 (Mr. Kiser reviews the letter.)

10 BENNY WAMPLER: Okay, the record will show there are
11 no others. You may proceed.

12 JIM KISER: I'll ask that Mr. Hall and Mr. Gandee be
13 sworn at this time.

14 (Witnesses are duly sworn.)

15 JIM KISER: I tell you what, before we get into the
16 standard testimony, let's address Mr. Ball's letter if we
17 could, Mr. Chairman.

18 BENNY WAMPLER: Go ahead.

19 JIM KISER: He was...he's the only unleased party in
20 this unit. He was sent a full application on the 19th. I
21 have his green card here and we sent you our affidavit of
22 mailing that he did receive it. His wife signed for it on
23 the 22nd of January. So, he has had ample notice of it.

24

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1 Regarding his second, or I guess his first assertion in his
2 letter that he hasn't...there hasn't been any communication
3 between himself and that applicant, I assume he means
4 regarding the plan of development and our burden or
5 obligation under the due diligence requirement to attempt to
6 obtain a voluntary lease from him. So, in that regard, I
7 would like to call Mr. Charlie Gandee as a witness at this
8 time.

9

10

CHARLIE GANDEE

11 having been duly sworn, was examined and testified as
12 follows:

13

DIRECT EXAMINATION

14 QUESTIONS BY MR. KISER:

15 Q. Mr. Gandee, if you could, state your name
16 for the record, who you're employed by and in what capacity?

17 A. I'm Charles Gandee and I'm employed as a
18 contractor with Equitable Resources as a land agent.

19 Q. And how long have you been employed by them
20 in acquiring oil and gas leases and coalbed methane leases in
21 Southwest, Virginia?

22 A. Approximately ten years.

23 Q. Have you testified previously before the
24

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1 Board?

2 A. Yes.

3 BENNY WAMPLER: Did she swear...did you swear both
4 of these witnesses?

5 COURT REPORTER: Yes.

6 BENNY WAMPLER: Okay.

7 Q. Could you, in your own words, go through for
8 the Board the efforts that you made in attempting to obtain a
9 voluntary lease agreement from Mr. Ball?

10 A. About the middle of January I had contacted
11 Mr. and Mrs. Ball. She answered the phone when I called. I
12 told her that I would be sending her a lease for them to
13 review and then I would get back with them. I mailed it to
14 them. I called back approximately a week and a half later.
15 I talked to Mr. Ball and he wasn't interested at the time
16 because he said there was some problems with Equitable. Last
17 week, I called and talked with Ms. Ball and I was wanting to
18 speak with him. She stated that he was in bed and she
19 couldn't wake him up. So, I said well, can I set up an
20 appointment to meet with him, which I did. We met at
21 Birchleaf, in the restaurant there in Birchleaf, and he
22 proceeded to tell me what the problems were, which I was
23 unaware of, and I wrote all the information down and then

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1 turned it over to Don. But...I sent him contracts...now I
2 never talked to him until I was at the meeting with him at
3 the restaurant, but I did speak with her and I did mail a
4 lease to them and I did talk to him on the phone and at that
5 time, he said that he didn't want to lease because of the
6 problems.

7 Q. Now, the problems that you're talking about
8 that he has alluded to have to do with some damage
9 settlements that are on going on some other wells that was
10 drilled on other interests that he has? They don't have
11 anything to do with this particular unit?

12 A. No, no.

13 JIM KISER: We've force pooled Mr. Ball on several
14 other occasions. I don't know if the Board remembers that or
15 not. So, he's familiar with the process...so that addresses
16 his first concern. His second concern, and I'll go ahead and
17 read the paragraph, "At the present, I have not entered into
18 any type of agreement regarding my interest, nor have I
19 consented to the stimulation from the various coal seams.
20 The location of the well VC-4647 would be at a distance of
21 approximately 225 feet west of my coal and gas property."
22 Well, that's obviously within the 750 feet. I direct the
23 Board to Exhibit B to the application in Tract 3, which is

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1 the tract in which Mr. Ball owns an undivided interest and I
2 direct your attention to the fact that we have a voluntary
3 lease agreement which gives us the right to stimulate the
4 coal seams from a majority of the co-tenants in that property
5 and under Section 361-29 that gives us the right to stimulate
6 the entire tract. So, that takes care of that objection. Is
7 there any questions to that?

8 (No audible response.)

9 JIM KISER: At that point, if we can, I'd like to
10 go ahead and go to Mr. Hall's testimony. Do you have any
11 questions of Mr. Gandee or---?

12 BENNY WAMPLER: Not at this time. Any other
13 questions from members of the Board of this witness?

14 (No audible response.)

15 JIM KISER: Call your next witness.

16

17 DON HALL

18 having been duly sworn, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. KISER:

22 Q. Mr. Hall, if you could state your name for
23 the Board, who you're employed by and in what capacity?

24

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1 A. My name is Don Hall. I'm employed by
2 Equitable Production Company. I'm a District Landman.

3 Q. Are you familiar with Equitable's
4 application seeking a pooling order for well number VC-4647,
5 which was January the 19th, 20001?

6 A. Yes, I am.

7 Q. Now, are you seeking to force pool...is
8 Equitable seeking to force pool the drilling rights
9 underlying the unit as depicted at Exhibit A, that being the
10 plat to the application?

11 A. Yes.

12 Q. And does the location proposed for well
13 number VC-4647 fall within the Board's order for the Nora
14 Coalbed Gas Field?

15 A. Yes, it does.

16 Q. And prior to filing the application, and you
17 heard Mr. Gandee testify, were efforts made to contact each
18 of the respondents and an attempt made to work out a
19 voluntary lease agreement regarding the development of the
20 unit?

21 A. Yes.

22 Q. Does Equitable own drilling rights in the
23 unit involved?

24

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1 A. We do.

2 Q. And what is the leased interest of Equitable
3 within the gas estate?

4 A. We have 91.32% of the gas estate leased.

5 Q. And the leased interest of Equitable in the
6 coal estate?

7 A. The same, 91.32%.

8 Q. And are all the unleased parties set out in
9 Exhibit B?

10 A. Yes, they are.

11 Q. Now, are you familiar with the ownership of
12 drilling rights of parties other than Equitable underlying
13 this lease?

14 A. Yes, I am.

15 Q. And what is the interest in both the gas
16 estate and the coal estate that remains unleased which
17 represents Gary and Lisa Ball's undivided...Terry and Lisa
18 Ball's undivided interest in Tract 3?

19 A. 8.68%.

20 Q. We do not have any unknown heirs or unknown
21 parties in this particular well. In your professional
22 opinion, was due diligence exercised to locate each of the
23 respondents named in Exhibit B?

24

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1 A. Yes.

2 Q. Now, are the addresses set out in Exhibit B
3 to the application the last known addresses for the
4 respondents?

5 A. They are.

6 Q. Now, are you requesting the Board to force
7 pool all the unleased interest listed in Exhibit B?

8 A. Yes.

9 Q. Are you familiar with the fair market value
10 of drilling rights in the unit here and in the surrounding
11 area?

12 A. Yes.

13 Q. Could you advise the Board as to what those
14 are?

15 A. A \$5 dollar bonus, a five year term, and a
16 1/8 royalty.

17 Q. And did you gain this familiarity by
18 acquiring oil and gas leases, coalbed methane leases and
19 other agreements involving the transfer of drilling rights in
20 the unit involved here and in the surrounding area?

21 A. Yes.

22 Q. In your opinion, do the terms you have
23 testified to represent the fair market value of and the fair
24

1 and reasonable compensation to be paid for drilling rights
2 within this unit?

3 A. They do.

4 Q. Now, as to Mr. Ball, who remains unleased,
5 do you agree that he be allowed the following options with
6 respect to his...their ownership interest within the unit:
7 One, participation; two, a cash bonus of \$5 per net mineral
8 acre and plus a 1/8 of 8/8 royalty; three, in lieu of a cash
9 bonus and 1/8 of 8/8 royalty share in the operation of the
10 well on a carried basis as a carried operator under the
11 following conditions: Such carried operator shall be entitled
12 to the share of production from the tracts pooled accruing to
13 his interest exclusive of any royalty or overriding royalty
14 reserved in any leases, assignments thereof, or agreements
15 relating thereto of such tracts, but only after the proceeds
16 applicable to his share equal: A) 300% of his share of such
17 costs applicable to the interest of a carried operator of a
18 leased tract or portion thereof; or B) 200% of his share of
19 such costs applicable to the interest of the carried operator
20 of an unleased tract or portion thereof?

21 A. Yes.

22 Q. Do you recommend that the order provide that
23 the election by the respondent be in writing and sent to the

24

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1 applicant at Equitable Production Company, 1710 Pennsylvania
2 Avenue, Charleston, West Virginia 25362, Attention: Melanie
3 Freeman, Regulatory?

4 A. Yes.

5 Q. Should this be the address for all
6 communications with the applicant concerning the force
7 pooling order?

8 A. Yes, it should.

9 Q. Do you recommend that the order provide that
10 if no written elections was properly made by a respondent,
11 such respondent shall be deemed to have elected the cash
12 royalty option in lieu of participation?

13 A. Yes.

14 Q. Should the unleased respondents be given
15 thirty days from the date that the Board is executed to file
16 those written elections?

17 A. Yes.

18 Q. If an unleased respondent elects to
19 participate, should they be given 45 days to pay an for their
20 proportionate share of well costs?

21 A. They should.

22 Q. And do expect the applicant pay those costs
23 in advance?

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1 A. Yes.

2 Q. Should the applicant be allowed 120 days
3 following the recordation date of the Board order and
4 thereafter annually on that date until production is
5 achieved, to pay or tender any cash bonus becoming due under
6 any force pooling order?

7 A. Yes.

8 Q. Do you recommend that the order provide that
9 if the respondent elects to participate but fails to pay
10 their proportionate share of well costs satisfactory to the
11 applicant for the payment of those costs, then the
12 respondent's election to participate should be treated as
13 having been withdrawn and void, and such respondent should be
14 treated just as if no initial election had been made or filed
15 under the force pooling, in other words, deemed to have
16 leased?

17 A. Yes.

18 Q. Do you recommend the order provide where a
19 respondent elects to participate but defaults in regard to
20 the payment of well costs, any cash sum becoming payable of
21 such respondent be paid within 60 days after the last date on
22 which such respondent could have paid or made satisfactory
23 arrangement for the payment of those well costs?

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1 A. Yes.

2 Q. Okay. You earlier testified we don't have
3 any unknown or unlocateables in this unit. Correct me if I'm
4 wrong, but we also do not have a conflicting claimant
5 situation. So, there's no need for the Board to establish a
6 escrow account for this unit, is that correct?

7 A. That's correct.

8 Q. And who should be named the operator under
9 any force pooling order?

10 A. Equitable Production Company.

11 Q. Okay, Mr. Hall, what is the total depth of
12 this proposed well under applicant's plan of development?

13 A. 2,045 feet, which includes all the
14 formations in the---

15 Q. Permit application.

16 A. ---permit application.

17 Q. What are the estimated reserves for the life
18 of this unit?

19 A. 325,000,000 cubic feet.

20 Q. Now, are you familiar with the well costs
21 for the proposed well under the plan of development?

22 A. Yes.

23 Q. And has an AFE been reviewed, signed and
24

1 submitted to the Board as Exhibit C to this application?

2 A. It has.

3 Q. And was this AFE prepared by an engineering
4 department knowledgeable in the preparation of AFEs and
5 knowledgeable in regard to well costs in this area?

6 A. Yes.

7 Q. Does the AFE represent a reasonable estimate
8 of the well costs for the proposed well under the plan of
9 development?

10 A. It does.

11 Q. Could you state for the Board at this time
12 both the dry hole costs and the completed well costs for VC-
13 4647?

14 A. The dry hole cost will be \$73,580 and
15 completed well costs will be \$191,110.

16 JIM KISER: Okay, we need...there needs to be a
17 correction made to the application then. Our application,
18 Mr. Chairman and Board members, states \$194,390, which is
19 what the AFE states that has been filed.

20 BENNY WAMPLER: I was going to have Mr. Hall, if he
21 could, read this AFE that the Board has?

22 DON HALL: Of course.

23 JIM KISER: It looks like to me \$194,390. I think
24

1 \$194,390 is right.

2 BENNY WAMPLER: You tell those guys in that
3 department to get us a better copy of that.

4 JIM KISER: We'll do that. That is hard to read.

5 BENNY WAMPLER: Yeah, it is hard.

6 Q. Mr. Hall, could you restate the completed
7 well cost for this well, please?

8 A. \$194,380.

9 Q. \$194,390 should be the correct completed
10 well cost.

11 BENNY WAMPLER: \$194,390?

12 JIM KISER: Right. So, the application is correct.

13 Q. Do these costs anticipate a multiple
14 completion?

15 A. They do.

16 Q. Does your AFE include a reasonable charge
17 for supervision?

18 A. Yes, it does.

19 Q. In your professional opinion, will the
20 granting of this application be in the best interest of
21 conservation, the prevention of waste and the protection of
22 correlative rights?

23 A. Yes, it would.

24

1 JIM KISER: Nothing further of this witness at this
2 time, Mr. Chairman. We'd anticipate there's some questions
3 here.

4 BENNY WAMPLER: Questions from members of the Board?

5 JIM KISER: And...go ahead.

6 BENNY WAMPLER: Obviously, one is to address the...
7 in addressing the letter. The applicant has requested under
8 sub-section C of 361-21, Subdivision C, as he has named it
9 here in that section. It does authorize the Board to...
10 Sandy, if you'll read that into the record, what it says.

11 SANDRA RIGGS: "Establish a procedure for a gas or a
12 oil owner who receives notice of the hearing and who does not
13 decide to become a participating operator may elect to
14 either: One, sell or lease his gas or oil ownership with
15 participating partnership to a participating partnership;
16 two, enter into a voluntary agreement to share in the
17 operation of the well at a rate of payment mutually agreed to
18 by the gas or oil owner and the gas or oil operator
19 authorized to drill the well; or three, share in the
20 operation of the well as a non-participating operator on a
21 carried basis after the proceeds applicable to his share
22 equal the following---" Now, he...and then it goes on to
23 list what the 300% and 200% breakout are. But he has

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1 elected, it sounds like, in advance of the pooling to sell
2 and the question....under our standard pooling order, we
3 provide the three other options and the questions would be,
4 what would be the appropriate terms for a sell of his coalbed
5 methane interest in this unit.

6 BENNY WAMPLER: What are your typical terms?

7 JIM KISER: I don't think we have ever had anybody
8 elect that option.

9 DON HALL: No, we haven't, to my knowledge.

10 SANDRA RIGGS: Do you routinely purchase coalbed
11 methane interests?

12 DON HALL: Just lease it. To my knowledge, we...I'm
13 trying to recall, but I don't recall...ever recall us
14 purchasing any.

15 JIM KISER: And we started down this road a couple
16 times in the eight or nine years I've been appearing before
17 this Board and, for whatever reason, we've never had to go
18 down them, and I know it presents problems for you all
19 because if...what happens if the force pooled party and the
20 operator can't come to a voluntary agreement as to what the
21 value of that interest is?

22 SANDRA RIGGS: Well, the Board would have to set the
23 value based on comparable sales.

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1 JIM KISER: Right.

2 BENNY WAMPLER: It would come before the Board.

3 JIM KISER: But there probably are no comparable
4 sales.

5 SANDRA RIGGS: Which is not consistent with what
6 he's asking for.

7 JIM KISER: Right.

8 SANDRA RIGGS: He's asking for the ability to
9 negotiate that sale price and---.

10 JIM KISER: Right.

11 SANDRA RIGGS: ---not for the Board. And I don't
12 think that's what the statute anticipates. It anticipates
13 that the election will be put out there and given the many of
14 choices, he can choose amongst them.

15 BENNY WAMPLER: Of course, it says mutually, the
16 operator and the---.

17 SANDRA RIGGS: A possibility would be to...I mean we
18 always leave open the possibility of voluntary negotiations
19 between the time of the entry of the order and the time the
20 election period terminates and that could be to either lease
21 or sell. I mean, he has the right to negotiate before that.

22 JIM KISER: Yeah.

23 DON HALL: Yeah. And we do that quiet often.

24

1 JIM KISER: Yeah.

2 DON HALL: I mean we get leases from people who
3 have---.

4 JIM KISER: We dismiss a lot of people out between
5 the time of the Board order and the time of supplemental
6 order.

7 CHARLIE GANDEE: Can I say something?

8 JIM KISER: Sure.

9 CHARLIE GANDEE: When I was talking with him, he
10 indicated that the problems that he has, if those are taken
11 care of, he said he wanted to sign the lease. But he
12 wouldn't because of these problems. He said...originally he
13 was going to sign it and send it back to me. But then he and
14 his wife sat down and discussed the problems and they said,
15 no, they wouldn't do it. Now, when I was with him...I think
16 that once we settle these problems with him, he'll just go
17 ahead and sign the lease. Now, that's my thoughts now.

18 DON HALL: But the problem...the problem with
19 settling some of the problems, those are perceived problems.
20 It's a question of whether he owns certain properties that
21 he claims and, you know, there's a question in that regard.

22 BENNY WAMPLER: Well, here again, that has already
23 been stated. That's not even before this Board.

24

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1 JIM KISER: Right.

2 BENNY WAMPLER: You know, all before us---.

3 JIM KISER: Hopefully, that would...best case

4 scenario, would be we'd solve the problems on the other wells

5 and he would go ahead and sign a voluntary lease and that

6 could all be accomplished, hopefully, between the time of the

7 Board order and the time that the election period would

8 expire.

9 SANDRA RIGGS: Well, it says, "sell or lease", and

10 the Board has always elected to insert lease terms because

11 that's what's typically done in the area and I guess the

12 question for the Board is do we want to deviate from our

13 standard order language which provides for lease and not for

14 sale in face of his request that he be...that sale terms be

15 established, I guess.

16 DON HALL: I think...I think he would have to make

17 his official election, though, before we could even consider

18 the sale terms, is that correct?

19 MAX LEWIS: I don't know of anytime that has ever

20 come before the Board that they wanted to do that since I've

21 been here.

22 JIM KISER: Yeah. We're getting the cart before the

23 horse.

24

1 BENNY WAMPLER: There's been some discussion but we
2 haven't had a...we haven't had this kind of written
3 application for this. That section indicates that the...that
4 it's...that it's left up to a mutual---.
5 SANDRA RIGGS: It's not and it's an or.
6 BENNY WAMPLER: Right. Sell or lease.
7 SANDRA RIGGS: And the Board has always pursued it
8 under lease---.
9 MAX LEWIS: Either one they want to.
10 SANDRA RIGGS: ---terms and not sell terms.
11 MAX LEWIS: He has that option, don't he?
12 SANDRA RIGGS: Well---.
13 MAX LEWIS: And/or, that's either one.
14 BENNY WAMPLER: (Inaudible).
15 SANDRA RIGGS: Well, what he's asking is to be able
16 to negotiate that, though, and not for the Board to set the
17 terms is what I'm saying.
18 BENNY WAMPLER: I understand.
19 SANDRA RIGGS: He doesn't want any restrictions on
20 his ability to negotiate price and if the Board does it, the
21 Board sets the price based on testimony. So, what he's
22 asking for doesn't fit with the statute either, is what I'm
23 saying, because he doesn't want us to set a price. He wants
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1 to be able to negotiate a price.

2 MAX LEWIS: That seems like to me a fair...fair
3 option for him.

4 SANDRA RIGGS: But he always has that option because
5 he's not locked into an election until thirty days from the
6 time---.

7 JIM KISER: Thirty days from the time the order is
8 entered.

9 SANDRA RIGGS: And in that interim period, he can
10 negotiate whatever he wants if he can reach an agreement...a
11 mutual agreement with the operator.

12 JIM KISER: We had this occur with a force pooling
13 we did in West Virginia before the CBM Review Board up there
14 and we entered testimony that the standard sell terms would
15 be the same as the lease terms. But you're saying that you
16 don't want that testimony here.

17 SANDRA RIGGS: Well, you said...no, that was after I
18 asked you if you wanted to put that testimony in and you said
19 you don't typically do that, or you weren't prepared to put
20 that testimony in.

21 JIM KISER: Well-.

22 SANDRA RIGGS: Without testimony, the Board's hard
23 pressed to come up with that out of thin air, I think.

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1 JIM KISER: Well, once again, I don't think he's
2 asking you to do that.

3 SANDRA RIGGS: Well, I realize that too.

4 JIM KISER: Which means...but I don't...does the
5 Board...does the Board have jurisdiction to set property
6 values?

7 SANDRA RIGGS: I don't think we're setting property
8 values. We've giving them a menu of elections based on
9 comparable sales.

10 JIM KISER: But if you...if we can't...if there's no
11 agreement as to what the value of that interest and it's a
12 bundle of sticks of what that estate in that property is, and
13 you come back and somehow, on comparable sales which don't
14 exist, make that determination, then that's what you're
15 doing.

16 SANDRA RIGGS: Well, we can't make it without that
17 testimony. That's my point.

18 RICHARD GILLIAM: And I think whatever the Board
19 does doesn't have any value on his interest because it's
20 still an 8% interest within this unit whether he sells it
21 today or whether he sells it later. I don't think any
22 decision we make today will effect the value of that.

23 JIM KISER: Well, it has even less value because
24

1 it's an undivided interest in a tract.

2 RICHARD GILLIAM: I mean, it's just minority...a
3 very small minority interest whether it has a lease or not.
4 If it doesn't have a lease value, it will have it in all
5 likelihood sixty days from now, or ninety days from now
6 because it's just a small...can the Board hold up 91% to
7 accommodate, and really I don't see it as accommodating at
8 all because, again, it is going to be viewed as a leased
9 portion of a small piece of a whole. I don't---.

10 SANDRA RIGGS: I don't think the statute anticipates
11 the Board holding it up. I think all the statute anticipates
12 is the Board setting the various options that he has and he
13 has to then elect one of those options.

14 RICHARD GILLIAM: But you still see him as having an
15 option to try to sell his lease---.

16 SANDRA RIGGS: Well, the statute---.

17 RICHARD GILLIAM: -or his leased portion.

18 SANDRA RIGGS: Let...let me---.

19 JIM KISER: It's poorly written. I still think that
20 that language anticipated somebody being a direct participant
21 is what they meant by it. Don't you?

22 MAX LEWIS: That gives him the right.

23 (Ms. Riggs explains the statute to Mr. Gilliam.)

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1 SANDRA RIGGS: Well, one of the...one possibility is
2 stay with our standard order, but in the order instruct him
3 that he has thirty days to attempt to negotiate that sale in
4 accordance with his language in his letter.

5 MAX LEWIS: If he...if we go ahead and do that, he
6 don't have any option really at all. It...he can just let it
7 ride and go ahead and lease...he'll have to lease.

8 SANDRA RIGGS: That's true. If he doesn't make an
9 election or---.

10 MAX LEWIS: Well, you know he's not. He might, but
11 I doubt it.

12 DON HALL: It sounds to me like he's going to elect
13 to sell based on what he's saying in his letter.

14 MAX LEWIS: Yeah, but they won't buy.

15 SANDRA RIGGS: But not on fixed terms.

16 MAX LEWIS: They won't buy.

17 SANDRA RIGGS: He wants...he wants to negotiate that
18 sale and not have the Board set the terms is what we're
19 saying.

20 MAX LEWIS: They're not going to...if we go ahead
21 and act on that---.

22 JIM KISER: I'd like to go back on the record and
23 put Mr. Hall back on then, if I could, please?

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DON HALL

DIRECT EXAMINATION RESUMES

QUESTIONS BY MR. KISER:

Q. Mr. Hall, in your professional opinion, what would the value under a sell option of Mr. Ball's interest be based on your experience in this area?

A. Well, the lease terms that we testified earlier would be.

Q. So, the...in your opinion, the value of the property under the sell or lease option would be the same terms as the fair market value that you testified to for terms for a voluntary lease?

A. That would have to be my position now.

Q. Okay. Thank you.

BENNY WAMPLER: Any questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

JIM KISER: We'd ask that the petition be approved as submitted, Mr. Chairman, or the application.

BENNY WAMPLER: Is there a motion? Is there a motion to approve?

1 (Long pause.)

2 BENNY WAMPLER: Just restate for the record
3 what...what your application before the Board...what your
4 request before the Board is, please.

5 JIM KISER: Okay. We'd request that the application
6 be approved as submitted with the language that Ms. Riggs
7 talked about, providing Mr. Ball with all of his statutory
8 options and with a thirty day period during which we would
9 attempt...he would have the right to make one of these
10 elections and during which we would also attempt to negotiate
11 a voluntary lease with him and/or come to some sort of
12 resolution as to what he'll do with his interest.

13 RICHARD GILLIAM: How does that...in your opinion,
14 does that address his issues?

15 SANDRA RIGGS: I assume that you will also negotiate
16 to purchase the interest, if that's the way he wants to
17 pursue it.

18 JIM KISER: Well, I think we'd have to.

19 SANDRA RIGGS: For a sale of the interest.

20 JIM KISER: Right.

21 RICHARD GILLIAM: I make that motion that we
22 approve.

23 BENNY WAMPLER: We have a motion to approve. Is
24

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1 there a second?

2 MAX LEWIS: I second that.

3 BENNY WAMPLER: Motion is seconded. Any further

4 discussion?

5 (No audible response.)

6 BENNY WAMPLER: All in favor, signify by saying yes.

7 (All members signify yes.)

8 BENNY WAMPLER: Opposed, say no.

9 (No audible response.)

10 BENNY WAMPLER: You have approval. Thank you. Do

11 you have anything further, Mr. Wilson?

12 BOB WILSON: Yes, I would like to inform the Board

13 in response to a request last month, we have instituted a

14 procedure to have the bank independently notify us of payout

15 amounts at the same time they notify the operator so we'll

16 have that form of verification and the amounts and that

17 should be done routinely from here on out. And also to

18 remind everybody present that the March has been rescheduled

19 for Monday the 19th. It's a one time rescheduling.

20 MAX LEWIS: Monday the 19th.

21 MASON BRENT: I would just like to let you know, Mr.

22 Chairman, that I will be here for that March meeting, but I

23 will be away the week of the April meeting. If you have a

24

1 problem with a quorum and you want to reschedule it to
2 another week, that will be fine with me.

3 BENNY WAMPLER: Okay. Al right. Thank you. We may
4 very well need to do that. Did you make note of that, Mr.
5 Wilson?

6 BOB WILSON: Yes, sir.

7 BENNY WAMPLER: Anything further?

8 (No audible response.)

9 BENNY WAMPLER: The hearing is concluded. Thank
10 you.

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12

13 STATE OF VIRGINIA,

14 COUNTY OF BUCHANAN, to-wit:

15 I, Sonya Michelle Brown, Court Reporter and Notary
16 Public for the State of Virginia, do hereby certify that the
17 foregoing hearing was recorded by me on a tape recording
18 machine and later transcribed by me personally.

19 Given under my hand and seal on this the 12th day
20 of March, 2001.

21

22

NOTARY PUBLIC

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24 My commission expires: August 31, 2001.

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